

## § 376.30

## 2 CFR Ch. III (1–1–15 Edition)

(see table at 2 CFR 180.100(b)), apply to you if you are a—

(a) Participant or principal in a “covered transaction” under subpart B of 2 CFR part 180, as supplemented by this part, and the definition of nonprocurement transaction” at 2 CFR 180.970.

(b) Respondent in HHS suspension or debarment action;

(c) HHS debarment or suspension official;

(d) HHS grants officer, agreements officer, or other HHS official authorized to enter into any type of nonprocurement transaction that is a covered transaction.

### § 376.30 What policies and procedures must I follow?

The policies and procedures that you must follow are the policies and procedures specified in each applicable section of the OMB guidance in subparts A through I of 2 CFR part 180, including the corresponding section that HHS published in 2 CFR part 376 identified by the same section number. The contracts under a nonprocurement transaction, that are covered transactions, for example, are specified by section 220 of the OMB guidance (*i.e.*, 2 CFR 180.220) as supplemented by section 220 in this part (*i.e.*, 2 CFR 376.220). For any section of OMB guidance in subparts A through I of 2 CFR part 180 that has no corresponding section in this part, HHS policies and procedures are those in the OMB guidance at 2 CFR part 180.

### Subpart A—General

#### § 376.137 Who in the Department of Health and Human Services (HHS) may grant an exception to let an excluded person participate in a covered transaction?

The HHS Debarring/Suspension Official has the authority to grant an exception to let an excluded person participate in a covered transaction as provided at 2 CFR 180.135.

#### § 376.147 Does an exclusion from participation in Federal health care programs under Title XI of the Social Security Act affect a person's eligibility to participate in nonprocurement and procurement transactions?

Any individual or entity excluded from participation in Medicare, Medicaid, and other Federal health care programs under Title XI of the Social Security Act, 42 U.S.C. 1320a–7, 1320a–7a, 1320c–5, or 1395ccc, and implementing regulation at 42 CFR part 1001, will be subject to the prohibitions against participating in covered transactions, as set forth in this part and part 180, and is prohibited from participating in all Federal Government procurement programs and nonprocurement programs. For example, if an individual or entity is excluded by the HHS Office of the Inspector General from participation in Medicare, Medicaid, and/or other Federal health care programs, in accordance with 42 U.S.C. 1320a–7, then that individual or entity is prohibited from participating in all Federal Government procurement and nonprocurement programs (42 CFR part 1001).

### Subpart B—Covered Transactions

#### § 376.220 What contracts and subcontracts, in addition to those listed in 2 CFR 180.220, are covered transactions?

In addition to the contracts covered under 2 CFR 180.220(b), this part also applies to all lower tiers of subcontracts under covered nonprocurement transactions, as permitted under the OMB guidance at 2 CFR 180.220(c). (See optional lower tier coverage in the diagram in the appendix to 2 CFR part 180.)

### Subpart C—Responsibilities of Participants Regarding Transactions

#### § 376.332 What methods must I use to pass requirements down to participants at lower tiers with whom I intend to do business?

To communicate the requirements to lower-tier participants, you must include a term or condition in the lower-